

Translation

PATENT COOPERATION TREATY

PCT/EP2003/007242



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 8331 WO Z RSF-ALG	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/007242	International filing date (day/month/year) 07 July 2003 (07.07.2003)	Priority date (day/month/year) 11 July 2002 (11.07.2002)
International Patent Classification (IPC) or national classification and IPC F16H 3/66		
Applicant ZF FRIEDRICHSHAFEN AG		

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1.	This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2.	This REPORT consists of a total of <u>5</u> sheets, including this cover sheet. <input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT). These annexes consist of a total of <u>2</u> sheets.
3.	This report contains indications relating to the following items: I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 20 December 2003 (20.12.2003)	Date of completion of this report 19 July 2004 (19.07.2004)
Name and mailing address of the IPEA/EP Facsimile No.	Authorized officer Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

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I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
 pages _____ 1-20 _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☒ the claims:
 pages _____, as originally filed
 pages _____, as amended (together with any statement under Article 19
 pages _____, filed with the demand
 pages _____ 1-5 _____, filed with the letter of _____ 14 April 2004 (14.04.2004)
- ☐ the drawings:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims		YES
	Claims	1-5	NO
Inventive step (IS)	Claims		YES
	Claims	1-5	NO
Industrial applicability (IA)	Claims	1-5	YES
	Claims		NO

2. Citations and explanations

1. The following documents are cited in the present report. The same numbering will be used throughout the procedure:

D1 DE-A-100 23 441
D2 DE-A-100 63 422.

The following documents are specified in the present report for the first time:

D3 EP-A-0 571 882
D4 EP-A-0 890 619.

2. Claims 1-5 do not appear to be novel within the meaning of PCT Article 33(2):

2.1 The claimed use of waxes produced using a metallocene catalyst in powder paints is known from D2 (page 7, line 64 to page 9, line 35). The claimed properties [dropping point 80 to 165 °C, density 0.87 to 1.03 g/cm³, viscosity 10 to 100 000 mPa.s (see the example of D2) and particle size (for example in D2, page 3, lines 10 to 15 and page 2, lines 10 to 14)] and the additives are also mentioned in D2.

It is generally known that metallocene waxes have a narrow molecular weight distribution. For example, D2 refers, in connection with the production of the waxes used therein,

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to D3, where a preferred molecular weight distribution of those waxes of 2 to 4 is mentioned on page 10. The waxes in D4 also have molecular weight distributions of less than 3 (see table 1).

A person skilled in the art can therefore take the teaching of the current claims directly from D2. The current claims 1-5 are therefore not novel in relation to D2.

3. Similarly D1 describes (paragraphs [0035] to [0038]) the use of such waxes in paints. The properties are disclosed in paragraph [0012] and here, too, reference is made to D3 in connection with the production (page 3, line 30), from which the molecular weight distribution is also known to a person skilled in the art.

3. The current claims 1-5 are not inventive within the meaning of PCT Article 33(3).

3.1 Since claims 1-5 are previously described in D1 and D2, they must also be considered to be obvious.